

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

GREGORY BOYER, as Administrator of the
Estate of Christine Boyer, and on his own behalf,

Plaintiff,

v.

Lead Case No. 20-CV-1123

**ADVANCED CORRECTIONAL
HEALTHCARE, INC., et al.,**

Defendants.

GREGORY BOYER, as Administrator of the
Estate of Christine Boyer, and on his own behalf,

Plaintiff,

v.

Case No. 22-CV-723

**USA MEDICAL & PSYCHOLOGICAL
STAFFING, et al.,**

Defendants.

**DEFENDANTS' MOTION TO GRANT ECF 292 – ACH DEFENDANTS' UNOPPOSED
MOTION TO STRIKE PLAINTIFF'S REBUTTAL EXPERTS**

On February 24, 2025, the Court denied plaintiff's motion for leave to disclose rebuttal reports, ECF 265, noting the request was premature and it was unclear how the rebuttal reports would affect the case. ECF 268. The Court ordered plaintiff to disclose the reports by February 24, as proposed by plaintiff, and further instructed the parties to brief the issue "to the extent plaintiffs rely on the rebuttal reports to oppose summary judgment and defendants believe this is improper." *Id.* The Court set April 4, 2025 as the date by which defendants must file their motion(s) to strike and April 11 as the deadline for plaintiff's response. *Id.*

Defendants moved to strike, highlighting this Court's explicit instruction that "a third round of rebuttal experts" is not permitted by the Scheduling Orders in these two cases. ECF 292 at 2, 3-7 (citing ECF 31 at 2; ECF 21 (Case no. 22-cv-723) at 2. Defendants further highlighted "that supplementation of expert reports must occur 'not later than five calendar days before the expert's deposition' in compliance with Rule 26(e)." *Id.* Finally, Defendants argued that plaintiff's "rebuttal" reports were not true rebuttal reports as contemplated by this Court's Scheduling Order, ECF 31, ECF 21 (Case no. 22-cv-723), Fed. R. Civ. Pro 26(e), and caselaw, *see Peals v. Terre Haute Police Dep't*, 535 F.3d 612, 630 (7th Cir. 2008). ECF 292 at 7-8.

It is April 18, 2025, the date which the Court set as the deadline for defendants' reply. ECF 268. Plaintiff has not filed a response to defendants' motion to strike plaintiff's rebuttal expert reports. Plaintiff, however, has relied on these rebuttal reports in his opposition to defendants' summary judgment motions. *See generally* ECF 275-78, 280.

Defendants maintain that this is improper based on the reasons set forth in ECF 292 and respectfully move this Court to enter an Order GRANTING defendants' unopposed motion to strike plaintiff's rebuttal expert reports, ECF 278 Exhibits 5, 10, and 11, and preclude plaintiff from relying on any opinions asserted in those reports at trial.

CONCLUSION

For the foregoing reasons and the arguments contained in defendants' unopposed motion to strike plaintiff's expert rebuttal reports, defendants request this Court GRANT ECF 292.

Dated this 18th day of April, 2025.

LEIB KNOTT GAYNOR LLC

By:/s/ Daniel A. Kafka

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